United Nations CERD/C/SRB/CO/2-5

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined second to fifth periodic reports of Serbia*

1. The Committee considered the combined second to fifth periodic reports of Serbia (CERD/C/SRB/2-5), submitted in one document, at its 2588th and 2589th meetings (see CERD/C/SR.2588 and 2589), held on 21 and 22 November 2017. At its 2604th meeting, held on 1 December 2017, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission, albeit delayed, of the combined second to fifth periodic reports of the State party. The Committee appreciates in particular the extensive statistics provided by the State party.

3. The Committee also expresses its appreciation for the open and constructive dialogue with the State party's delegation and wishes to thank the delegation for the information provided during the consideration of the report.

B. Positive aspects

4. The Committee welcomes the establishment in 2014 of the Council for Monitoring the Implementation of the Recommendations of the United Nations Mechanisms for Human Rights.

5. The Committee also welcomes the State party's efforts to amend its policies, programmes and administrative measures to ensure better implementation of the Convention, including the development of the following strategies:

(a) The Anti-Discrimination Strategy (2013–2018) and the accompanying Action Plan;

(b) The National Strategy for Combating Violence and Hooliganism at Sports Events (2013–2018);

(c) The National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons (2015–2020);

(d) The Strategy for the Social Inclusion of Roma in the Republic of Serbia (2016–2025);

(e) The National Strategy for the Prosecution of War Crimes (2016–2020);

(f) The National Judicial Reform Strategy (2013–2018).

* Adopted by the Committee at its ninety-fourth session (20 November–8 December 2017).

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6. The Committee further welcomes the ratification of or accession to the following instruments by the State party:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance, in May 2011;

(b) The Convention on the Reduction of Statelessness, in December 2011.

7. The Committee notes that, in March 2015, the national human rights institution, the Protector of Citizens (Ombudsman), was again accredited with "A" status by the Global Alliance of National Human Rights Institutions.

8. The Committee welcomes the information provided by the State party on its efforts to cooperate with the International Criminal Tribunal for the Former Yugoslavia.

C. Concerns and recommendations

Complaints to the national human rights institution

9. The Committee notes the State party's information that the Ombudsman received 153 complaints in 2014 concerning the protection of national minorities and has reviewed numerous complaints. However, the Committee is concerned at the paucity of information on complaints regarding racial discrimination submitted to the Ombudsman and on the outcome of their review (art. 2).

10. **The Committee requests the State party to provide in its next periodic report statistics and information on the nature and outcome of complaints related to racial discrimination submitted to the national human rights institution.**

Judiciary

11. The Committee takes note of the State party's recent efforts to improve the transparency and efficiency of the judiciary. However, observing that all individuals must enjoy effective protection and remedies, through competent national tribunals and other State institutions, against any acts of racial discrimination, and that the independence of the judiciary is essential in this respect, the Committee is concerned at reports that the conditions required for judicial independence are not always present in the State party (arts. 2 and 5).

12. **The Committee encourages the State party to strengthen and guarantee the independence of the judiciary from political control and interference, so as to ensure proper administration of justice, in particular in cases related to racial discrimination, and to take into account its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.**

Racist hate speech and incitement to racial hatred

13. The Committee welcomes the State party's information that hate speech is prohibited under several media laws adopted in 2014. However, it is alarmed by reports of a rise in hate speech, including on the Internet, against ethnic and ethno-religious minorities; by the continuing occurrence of racist speech and behaviour in the context of football events; and by reports that authorities have failed to intervene in a timely manner during such incidents. The Committee is concerned by indications that hate speech remains underreported and by the absence of comprehensive statistics on investigations into and prosecutions and convictions for acts of racist hate speech and incitement to racial hatred. While noting that article 387 of the Criminal Code provides that hate speech is generally criminalized, the Committee is concerned that, pursuant to article 344 (a) of the Criminal Code, incitement to hatred at sporting events or public assemblies is criminalized only insofar as it leads to violence or physical conflict (arts. 2 and 4).

14. **Referring to its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 15 (1993) on article 4 of the**

Convention and No. 35 (2013) on combating racist hate speech, the Committee requests the State party to provide in its next periodic report statistics, disaggregated by ethnicity of the victim, concerning investigations, prosecutions, convictions, sanctions and remedies for acts of racist hate speech and incitement to racial hatred. The Committee further recommends that the State party:

(a) **Ensure that its laws criminalize incitement to racial hatred, whether or not it incites violence;**

(b) **Strengthen measures to ensure that racist hate speech, including in its written, spoken and online forms, is effectively identified, investigated and punished, in line with general recommendation No. 35 (2013) on combating racist hate speech;**

(c) **Take appropriate measures to combat the proliferation of acts and manifestations of racism on the Internet, including by blocking websites devoted to inciting racial discrimination and hatred and by requiring social media networks and other websites featuring online comments to monitor their sites for and promptly remove hate speech;**

(d) **Vigorously combat racist behaviour in sports, particularly in football, including by disseminating strong anti-racism messages at sporting events and by promptly implementing the recommendations contained in paragraphs 56 and 57 of the 2017 report of the European Commission against Racism and Intolerance on Serbia;**

(e) **Increase efforts to inform and sensitize the public about racist hate speech and relevant complaint mechanisms;**

(f) **Ensure that political leaders and educators actively promote inter-ethnic tolerance and understanding;**

(g) **Ensure that persons convicted by the International Criminal Tribunal for the Former Yugoslavia are not promoted as heroes in any part of the country.**

Racist hate crimes

15. The Committee welcomes the adoption of article 54 (a) of the Criminal Code, as amended by the Law on Amendments to the Criminal Code (2012), introducing aggravating circumstances for offences motivated, inter alia, by hatred on the grounds of race, nationality or ethnicity. It also notes the State party's information that the Republic Public Prosecutor's Office has requested application of this provision twice for hate crimes based on nationality. Although the Republic Public Prosecutor's Office keeps statistics on complaints made under article 317 of the Criminal Code in relation to offences of instigation of, inter alia, racial hatred and intolerance, the information provided to the Committee is not entirely clear, cogent or meaningful (arts. 2, 4 and 6).

16. **The Committee recommends that the State party pursue its efforts to enforce article 54 (a) of the Criminal Code, notably by:**

(a) **Ensuring that all reported incidents, investigations, prosecutions, sanctions and remedies relating to racist hate crimes are recorded;**

(b) **Ensuring that sanctions commensurate with the gravity of racist hate crimes are imposed on perpetrators and that victims obtain full redress;**

(c) **Designating within law enforcement services contact persons for racist incidents, training those persons to conduct investigations and ensuring that they engage in regular dialogue with targeted groups, in order to ensure adequate reporting of racist hate crimes.**

17. **The Committee requests that the State party provide detailed statistics, disaggregated by ethnicity, on the number and nature of racist hate crimes reported, prosecutions and convictions and redress provided to victims. The Committee also requests statistics on the number of such cases which are still pending before the Republic Public Prosecutor's Office and before the courts.**

Trafficking in persons

18. Noting that increased migration is often linked to trafficking in persons, the Committee welcomes the establishment of the Centre for Human Trafficking Victims Protection in 2012, and notes the State party's information that in recent years, authorities have filed criminal charges against several hundred individuals for human trafficking. However, the Committee is concerned by the significant incidence of human trafficking in the State party (arts. 2 and 6).

19. **The Committee requests the State party to provide in its next periodic report statistics, disaggregated by sex and national or ethnic origin of the victim, on the number of investigations and prosecutions carried out relating to offences of trafficking in persons and on the sanctions and remedies applied. It also requests the State party to continue its efforts to prevent, combat and punish trafficking in persons and to focus its efforts on members of ethnic minorities and non-citizens, who are particularly vulnerable to trafficking.**

Roma and education

20. The Committee appreciates the State party's detailed statistics, disaggregated by ethnicity, on educational attainment and notes with interest the delegation's statements concerning scholarships and other support provided to Roma students. The Committee is, however, deeply concerned that the percentage of Roma children enrolled in all levels of education is drastically lower than that of the general population of children. The Committee is further concerned at the practice of segregation in schools where most children are Roma, or where Roma are placed in Roma-only classes (arts. 2, 5 and 6).

21. **In the light of its previous recommendation (CERD/C/SRB/CO/1, para. 15), the Committee urges the State party to put an end to de facto public school segregation of Roma children and ensure access to quality education for Roma children, including through anti-racism and human rights training for school staff, awareness-raising efforts targeting parents and increased employment of Roma teachers. The Committee also recommends that the State party take measures to avoid so-called "white flight" from schools where Roma are enrolled, including by developing effective mechanisms with a view to preventing further de facto segregation in schools. The Committee further recommends that the State party enshrine the desegregation of schooling in its national policies to ensure its sustainability and provide adequate funding for its implementation, in line with target 4.1 of the Sustainable Development Goals on ensuring that, by 2030, all girls and boys complete free, equitable and quality primary and secondary education.**

Housing

22. While noting the State party's statement that the Law on Housing and Building Maintenance (2016) conforms to the highest international human rights standards and taking note of the Strategy for the Social Inclusion of Roma in the Republic of Serbia 2016–2025 and related Action Plan, the Committee is very concerned by reports that one-third of registered homeless persons in the State party are Roma and that 60,000 Roma, Ashkali and Egyptians live in substandard living conditions in hundreds of informal settlements, often lacking access to basic services, including drinking water and sanitation. The Committee is also concerned by reports that forced evictions from settlements continue to take place without consultation, due process of law or the possibility of alternative accommodation (arts. 2, 3, 5 and 6).

23. **Recalling its general recommendations No. 19 (1995) on article 3 of the Convention No. 27 (2000) on discrimination against Roma and in the light of its previous recommendation (CERD/C/SRB/CO/1, para. 14), the Committee urges the State party to eliminate de facto residential segregation and to vigorously pursue efforts to develop social housing programmes for Roma. The Committee also urges the State party to:**

(a) **Ensure that, where resettlement from informal settlements is necessary as a last resort, residents are consulted in advance and are provided with sufficient notice and adequate and appropriate alternative housing;**

(b) **Allocate and disburse sufficient funds to provide durable housing solutions for Roma, Ashkali and Egyptians, so as to contribute to their enjoyment of their right to an adequate standard of living;**

(c) **Provide information in its next periodic report on measures taken to achieve these actions and their results.**

Legal aid

24. While noting with interest the information on legal aid provided by the delegation and contained in the State party's report, the Committee is concerned that the draft law on free legal aid has not been adopted, thus potentially impeding access to redress for acts of racial discrimination (arts. 2, 5, 6 and 7).

25. **The Committee recommends that the State party ensure that individuals with insufficient means to pay for legal representation have the legal right to free access to legal recourse for acts of racial discrimination. The Committee also recommends that the State party provide, free of charge, clear information to members of vulnerable groups, in a language they understand, concerning their rights under the Convention and complaint mechanisms for acts of racial discrimination.**

Asylum seekers, migrants and refugees

26. The Committee notes the State party's information that asylum seekers have the right to accommodation, health care, free education, social assistance and translation services, and further notes the information provided during the dialogue on permanent and temporary accommodation. However, the Committee is concerned by reports that most asylum claims filed in the past two years have not been decided upon and that the safe third country principle was applied to the vast majority of asylum claims filed in 2016 (arts. 5 and 7).

27. **Referring to its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party:**

(a) **Pursue efforts to ensure that all non-citizens, including migrants and asylum seekers, enjoy their human rights and have access to adequate humanitarian services, including food, shelter and health services;**

(b) **Take urgent measures to ensure timely and fair processing of asylum claims, including by providing sufficient funding for relevant decision-making bodies, and to ensure consistent respect for the principle of non-refoulement;**

(c) **Ensure that all children, including migrant children, are enrolled in primary education and implement inclusion programmes in schools to provide the linguistic and other support migrant children need;**

(d) **Provide in its next periodic report disaggregated statistics relating to the number and outcome of asylum claims filed.**

D. Other recommendations

Ratification of other treaties

28. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Lastly, the Committee recommends that the**

State party consider ratifying the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.

Amendment to article 8 of the Convention

29. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Follow-up to the Durban Declaration and Programme of Action

30. **In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

31. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

32. **The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Dissemination of information

33. **The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.**

Common core document

34. **The Committee notes that the State party's common core document was submitted in 2010. The Committee encourages the State party to update its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.**

Follow-up to the present concluding observations

35. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 16 and 17 above.**

Paragraphs of particular importance

36. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 10, 19, 23 and 27 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Preparation of the next periodic report

37. **The Committee recommends that the State party submit its combined sixth to ninth periodic reports, as a single document, by 27 April 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**